

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re ELEVATOR ANTITRUST
LITIGATION

This Document Relates To:

ALL ACTIONS.

x

: Civil Action No. 04-CV-01178(TPG)

:

:

ELECTRONICALLY FILED

:

:

:

:

:

:

x

DECLARATION OF DAVID W. MITCHELL
IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS' MOTION
TO DISMISS THE SECOND
CONSOLIDATED AMENDED
COMPLAINT

Pursuant to 28 U.S.C. §1746, David M. Mitchell declares as follows:

1. I am an associate of the law firm of Lerach Coughlin Stoia Geller Rudman & Robbins LLP, co-lead counsel for plaintiffs. I am admitted to practice *pro hac vice* in the above-captioned matter. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

2. I submit this declaration in support of Plaintiffs' Opposition to Defendants' Motion to Dismiss the Second Consolidated Amended Complaint and to put before the Court certain documents cited in plaintiffs' papers.

3. Attached are true and correct copies of the following documents:

Exhibit	Document
1	<i>EU confirms probing escalator, elevator makers in 4 countries – UPDATE</i> , AFX News Limited, Jan. 29, 2004 available at www.lexis-nexis.com ;
2	<i>European Lift Association confirms EU probing four of its member companies</i> , AFX News Limited, Jan. 29, 2004, available at www.lexis-nexis.com ;
3	<i>EU carries out more raids in elevator cartel probe</i> , The Associated Press, Mar. 16, 2004, available at www.lexis-nexis.com ;
4	<i>EU accuses lift companies in price-fixing investigation</i> , The Times (London), Oct. 12, 2005, available at www.lexis-nexis.com ; and
5	<i>In re Elevator Antitrust Litigation</i> , No. 04-CV-01178(TPG), Hearing Transcript (S.D.N.Y. Jan. 13, 2005).

/s/David W. Mitchell

DAVID W. MITCHELL

CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List and all parties on the attached service list.

/s/Fred Taylor Isquith

FRED TAYLOR ISQUITH

WOLF HALDENSTEIN ADLER
FREEMAN & HERZ, LLP

270 Madison Avenue

New York, NY 10016

Telephone: 212/545-4600

212/545-4653 (fax)

E-mail: isquith@whafh.com